

ASSEMBLY BILL

No. 470

Introduced by Assembly Member Niello

February 24, 2009

An act to amend Section 791.13 of the Insurance Code, relating to insurance information.

LEGISLATIVE COUNSEL'S DIGEST

AB 470, as introduced, Niello. Insurance information: confidential.

Existing law prohibits insurance institutions, agents, or insurance-support organizations from disclosing personal or privileged information collected in connection with an insurance transaction unless a specified exception applies.

This bill would authorize the disclosure of information from an accident report, supplemental report, or investigative report to an insured's lawyer if the insured is otherwise entitled to obtain the report, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 791.13 of the Insurance Code is amended
- 2 to read:
- 3 791.13. An insurance institution, agent, or insurance-support
- 4 organization shall not disclose any personal or privileged
- 5 information about an individual collected or received in connection
- 6 with an insurance transaction unless the disclosure is:

(a) With the written authorization of the individual, and meets either of the conditions specified in paragraph (1) or (2):

(1) If ~~such~~ *the* authorization is submitted by another insurance institution, agent, or insurance-support organization, the authorization meets the requirement of Section 791.06.

(2) If ~~such~~ *the* authorization is submitted by a person other than an insurance institution, agent, or insurance-support organization, the authorization is:

(A) Dated.

(B) Signed by the individual.

(C) Obtained one year or less prior to the date a disclosure is sought pursuant to this section.

(b) To a person other than an insurance institution, agent, or insurance-support organization, provided ~~such~~ *the* disclosure is reasonably necessary:

(1) To enable ~~such~~ *the* person to perform a business, professional or insurance function for the disclosing insurance institution, agent, or insurance-support organization or insured and ~~such~~ *the* person agrees not to disclose the information further without the individual's written authorization unless the further disclosure:

(A) Would otherwise be permitted by this section if made by an insurance institution, agent, or insurance-support organization; or

(B) Is reasonably necessary for such person to perform its function for the disclosing insurance institution, agent, or insurance-support organization.

(2) To enable ~~such~~ *the* person to provide information to the disclosing insurance institution, agent or insurance-support organization for the purpose of:

(A) Determining an individual's eligibility for an insurance benefit or payment; or

(B) Detecting or preventing criminal activity, fraud, material misrepresentation or material nondisclosure in connection with an insurance transaction.

(c) To an insurance institution, agent, insurance-support organization or self-insurer, provided the information disclosed is limited to that which is reasonably necessary under either paragraph (1) or (2):

1 (1) To detect or prevent criminal activity, fraud, material
2 misrepresentation or material nondisclosure in connection with
3 insurance transactions; or

4 (2) For either the disclosing or receiving insurance institution,
5 agent or insurance-support organization to perform its function in
6 connection with an insurance transaction involving the individual.

7 (d) To a medical-care institution or medical professional for the
8 purpose of any of the following:

9 (1) Verifying insurance coverage or benefits.

10 (2) Informing an individual of a medical problem of which the
11 individual may not be aware.

12 (3) Conducting operations or services audit, provided only such
13 information is disclosed as is reasonably necessary to accomplish
14 the foregoing purposes.

15 (e) To an insurance regulatory authority; or

16 (f) To a law enforcement or other governmental authority
17 pursuant to law.

18 (g) Otherwise permitted or required by law.

19 (h) In response to a facially valid administrative or judicial
20 order, including a search warrant or subpoena.

21 (i) Made for the purpose of conducting actuarial or research
22 studies, provided:

23 (1) No individual may be identified in any actuarial or research
24 report.

25 (2) Materials allowing the individual to be identified are returned
26 or destroyed as soon as they are no longer needed.

27 (3) The actuarial or research organization agrees not to disclose
28 the information unless the disclosure would otherwise be permitted
29 by this section if made by an insurance institution, agent or
30 insurance-support organization.

31 (j) To a party or a representative of a party to a proposed or
32 consummated sale, transfer, merger or consolidation of all or part
33 of the business of the insurance institution, agent or
34 insurance-support organization, provided:

35 (1) Prior to the consummation of the sale, transfer, merger, or
36 consolidation only such information is disclosed as is reasonably
37 necessary to enable the recipient to make business decisions about
38 the purchase, transfer, merger, or consolidation.

1 (2) The recipient agrees not to disclose the information unless
2 the disclosure would otherwise be permitted by this section if made
3 by an insurance institution, agent or insurance-support organization.

4 (k) To a person whose only use of ~~such~~ *the* information will be
5 in connection with the marketing of a product or service, provided:

6 (1) No medical-record information, privileged information, or
7 personal information relating to an individual's character, personal
8 habits, mode of living, or general reputation is disclosed, and no
9 classification derived from ~~such~~ *the* information is disclosed; or

10 (2) The individual has been given an opportunity to indicate
11 that he or she does not want personal information disclosed for
12 marketing purposes and has given no indication that he or she does
13 not want the information disclosed; and

14 (3) The person receiving such information agrees not to use it
15 except in connection with the marketing of a product or service.

16 (l) To an affiliate whose only use of the information will be in
17 connection with an audit of the insurance institution or agent or
18 the marketing of an insurance product or service, provided the
19 affiliate agrees not to disclose the information for any other purpose
20 or to unaffiliated persons.

21 (m) By a consumer reporting agency, provided the disclosure
22 is to a person other than an insurance institution or agent.

23 (n) To a group policyholder for the purpose of reporting claims
24 experience or conducting an audit of the insurance institution's or
25 agent's operations or services, provided the information disclosed
26 is reasonably necessary for the group policyholder to conduct the
27 review or audit.

28 (o) To a professional peer review organization for the purpose
29 of reviewing the service or conduct of a medical-care institution
30 or medical professional.

31 (p) To a governmental authority for the purpose of determining
32 the individual's eligibility for health benefits for which the
33 governmental authority may be liable.

34 (q) To a certificate holder or policyholder for the purpose of
35 providing information regarding the status of an insurance
36 transaction.

37 (r) To a lienholder, mortgagee, assignee, lessor, or other person
38 shown on the records of an insurance institution or agent as having
39 a legal or beneficial interest in a policy of insurance. The
40 information disclosed shall be limited to that which is reasonably

1 necessary to permit the person to protect his or her interest in the
2 policy and shall be consistent with Article 5.5 (commencing with
3 Section 770).

4 (s) To an insured *or the insured's lawyer* when the information
5 disclosed is from an accident report, supplemental report,
6 investigative report or the actual report from a government agency
7 or is a copy of an accident report or other report which the insured
8 is entitled to obtain under Section 20012 of the Vehicle Code or
9 subdivision (f) of Section 6254 of the Government Code.

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